

California Insurance Commissioner Announces New "Pay-As-You-Drive" Rating Option

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Effective immediately, insurers may offer a verified actual mileage option instead of, or in addition to, the estimated mileage program that traditionally has been used in determining automobile insurance premiums in California.

Specifically, for purposes of determining the number of miles driven annually by the insured, as required under the Second Mandatory Rating Factor, insurers can either: (a) switch to the new program; (b) offer both the verified actual mileage program and the traditional estimated mileage program; or (c) stick with the traditional program. Insurers that offer both programs must make participation in the verified actual mileage program voluntary.

The underlying impetus behind the new regulations is the Commissioner's environmental push to reduce CO² emissions and gasoline consumption by incentivizing drivers to drive less. "The Commissioner finds that basing the Second Mandatory Rating Factor on verified actual miles driven, rather than on estimated miles driven, may enable policyholders to reduce their premiums by driving less and create incentives for innovation in insurance rating in California with numerous attendant benefits." 10 CCR, § 2632.5(c)(2)(F); ("*Commissioner Poizner Announces Final Approval of Pay-As-You Drive Regulations.*")

Under [the new option](#), an insurer may require an insured who chooses the verified actual mileage option for one vehicle to choose that option for all vehicles insured under the same policy.

The new option allows for a variety of different verification methods. An insurer may select one or more of the following:

1. odometer readings which are read by the insurer or its agent or insurer's third-party vendor;
2. odometer readings read by auto repair dealer in servicing the vehicle or by a vendor retained by the insurer;
3. odometer readings obtained by government licensed smog check stations or any other government agency that maintains public records of odometer readings;
4. odometer readings reported to the insurer by the insured or the insured's agent;
5. by a technological device provided by the insurer or otherwise made available to the insured that accurately collects vehicle mileage information. Such a device can only be used by the insurer to collect information for determining actual miles driven and not to collect or store information about the location of the insured vehicle, with the following caveat: "nothing in this section shall prevent a motor club or insurer from using a technological device to collect information about the location of the insured vehicle as part of an emergency road service, theft service, map service or travel service."

6. any other method approved by the Commissioner.

The verification methods selected by the insurer must be made available to all insureds equally. For example, if the insurer permits its insureds to self-report odometer readings, it must uniformly offer that verification method to the public.

In addition, by utilizing the new program, insurers are permitted to do the following:

- retroactively or prospectively adjust premiums based on actual miles driven provided the insurer gives notice to the policyholder prior to the effective date of the policy;
- where both a mileage estimation program and a verified actual mileage program are offered, the insurer may provide a discount to a policyholder who participates in the verified actual mileage program. Such a discount, however, must be actuarially supported. Specifically, in order to use the discount, the insurer must demonstrate "cost savings or actuarial accuracy associated with obtaining and using actual miles driven rather than estimated mileage." In addition, the discount must be applied to all policyholders in the verified actual mileage program, regardless of the method of verification used.
- offer the option to purchase coverage for a specified price per mile – "Price Per Mile Option." The regulation, however, offers no guidance in setting that "price per mile," other than making it subject to compliance "with all applicable laws." (This provision of the new regulation will likely require further clarification by the Commissioner or the courts).
- combine Percent Use, Academic Standing, Gender, Marital Status, and Driver Training with the Second Mandatory Rating Factor. If so, the insurer must demonstrate in its class plan that the rating factors used in combination, when considered individually, comply with the weight ordering requirements of 10 CCR § 2632.8.

Lastly, where an insurer utilizes both programs, they must be included in one class plan.